

IN THE UNITED STATES DISTRICT COURT  
For the Middle District of Alabama  
Northern Division

RECEIVED

PAUL DALE WOLFE  
215433 Petitioner

2006 FEB -7 A 9:51

CIVIL ACTION NO.  
2:05-CV-742-D

VS

J.C. Giles, ET AL.,  
Respondents

DEB: ( )  
US ( )  
MIL ( )

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(

Petition Show Cause Why  
Petition Should NOT be Dismissed

Comes now the Petitioner Paul Dale Wolfe 215433  
Pro-se in response to this Honorable District Courts  
Order to Show Cause, Petitioner Respectfully  
Shows the Following:

### STATEMENT OF FACTS

ON OCTOBER 1ST 2004 Petitioner PAUL DALE  
WOLFE 215433 NOT KNOWING ANY BETTER, A  
LAYMAN UNSCHOOLED IN THE LAW, FILED A HABEAS  
CORPUS WITH THE COUNTY OF CONVICTION (MONTGOMERY  
COUNTY), THEN DISCOVERED THAT SUCH A WRIT  
OF HABEAS CORPUS SHOULD HAVE BEEN FILED IN  
THE COUNTY OF CONFINEMENT, IN THIS CAUSE OF  
ACTION IT WAS BARBOUR COUNTY, CLAYTON ALABAMA.

AT THIS TIME PETITIONER FILED "MOTION TO  
WITHDRAW" TO MONTGOMERY COUNTY, FOR SAID  
HABEAS CORPUS.

Petitioner AT THIS TIME FILED A SAME TYPE

AND manner Habeas Corpus into Barbour County Circuit Court.

ON the 29th day of April 2005, The Honorable Judge Burt Smithart, Circuit Judge, Third Judicial Circuit, in the Circuit Court of Barbour County, Ordered that the Petition, styled Writ of Habeas Corpus that Petitioner Filed in the County of Incarceration, Barbour, be transferred to the County of conviction, (Montgomery County Circuit Court)!

Montgomery at this time Filed A Motion to the Petitioner Wolfe stating that his Habeas Corpus was denied by the Honorable Judge Truman Hobbs Jr.

Petitioner believed that this Petition was the one that was in fact sent to Montgomery County Court by Barbour County Court, so Petitioner Filed a timely Federal Habeas Corpus with this Honorable District Court.

When in fact Barbour County never sent said Habeas Corpus to Montgomery County.

After many motions between The Honorable Attorney General's Office, District Court, and Petitioner, were Attorney General made false allegations about Petitioner that were proven to be false, such as time bar etc...

Now Attorney General's Office once again has thrown a Harpoon into this case, trying to have this Habeas Corpus thrown out!

When in fact it was the State that made the mistake of not filling ordered petition in a timely manner, causing complete confusion.

ON the 2nd day of November 2005 YVONNE A.H. SAXON Assistant Attorney General Filed "Respondents Supplemental Answer" to Courts Order, to the Honorable United States District Court for the Middle District of Alabama Northern Division".

IN this Supplemental Answer this Assistant made the Statement that Petitioner had properly Filed a timely post-conviction within the one-year Statute of Limitations for Rule 32.

IN section #4 of the Respondents Supplemental Answer, it is stated "Wolfe's State Habeas Corpus Petition, However WAS NOT TRANSFERRED AS ORDERED Due to A CONFUSION with the Clerks File in BARBOUR County".

The State Confessed in the Supplemental Answer "that BARBOUR County Clerk made the Misstake"

IF this Petitioner Had made the misstake AND WAS late for 1 day much less 210 days, 7 months Petitioner would be time barred!

IS there NO law that covers this situation to protect Petitioners? IS there NOT A law that STATES, when AN Order is made from AN Honorable Judge that it is to be followed, AND if it's NOT followed than it is to be dismissed?

this STATE Confesses there Misstake, AND it is VERY PLAIN that this mistake CAUSED Petitioner prejudice.

IF this Honorable Court will NOT GRANT Motion to show CAUSE, because of prejudice to Petitioner, AND proceed with His Federal Writ

then in the Alternative please Dismiss  
Said Habeas Corpus without prejudice AND order  
past 7 months lost to not be held against  
Petitioner.

IT is so prayed.



## CERTIFICATE OF SERVICE

I Do hereby Certify that a copy of the same foregoing Motion has been served upon the Honorable Attorney General, 11 South Union Street Montgomery, Alabama 36130-0152, AND upon the Honorable Office of the Clerk United States District Court P.O. Box 711 Montgomery, Alabama 36101-0711 by placing the same into the United States Mail Box at Ventress Corr. FA. Correctly Addressed AND Postage prepaid this the 3rd day of ~~February~~ 2006.

STATE OF ALABAMA

COUNTY OF Barbour

Subscribed AND sworn to before me this the 3rd day of Feb. 2006.

Reba Currie  
NOTARY PUBLIC

9-8-08  
Comm. Exp. Date

Respectfully Submitted  
~~Paul Dale Wolfe~~  
PAUL DALE WOLFE  
215433-6 Dorm-2  
Ventress Corr. FA.  
P.O. Box 767  
Clayton, ALABAMA  
36016